

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emily Devaney	Team: Squad #4	CCRB Case #: 201909241	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/18/2019 5:30 AM	Location of Incident: § 87(2)(b)	Precinct: 10	18 Mo. SOL 4/18/2021	EO SOL 12/3/2021	
Date/Time CV Reported Wed, 10/23/2019 11:35 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 10/23/2019 11:35 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Juan Ramirez	436	920736	WARRSEC
2. SGT Brian Garay	03770	932690	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Michael Prilook	2030	933205	WARRSEC
2. DT3 Steven Lopez	05827	938880	WARRSEC
3. DT3 Edelman Santos	239	949622	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.SGT Brian Garay	Abuse: Sergeant Brian Garay entered § 87(2)(b), in Manhattan.	§ 87(2)(b)
B.SGT Brian Garay	Abuse: Sergeant Brian Garay damaged § 87(2)(b)s property.	§ 87(2)(b)
C.DT3 Juan Ramirez	Abuse: Detective Juan Ramirez refused to show the arrest warrant to § 87(2)(b)	§ 87(2)(b)

### Case Summary

On October 23, 2019, § 87(2)(b) filed this complaint in person at the CCRB.

On October 18, 2019, at approximately 5:30 a.m., § 87(2)(b) was with her boyfriend, § 87(2)(b) in her apartment at § 87(2)(b), in Manhattan when Detective Juan Ramirez, Sergeant Brian Garay, Detective Michael Prilook, Detective Steven Lopez, and Detective Edelman Santos, all from NYPD Warrants Section, knocked on her door. Officers told § 87(2)(b) through the door that they had a warrant and to open the door. § 87(2)(b) refused, and Sgt. Garay struck the door with a ram. § 87(2)(b) opened the door, and the Sgt. Garay and Det. Prilook entered the apartment (**Allegations A and B: Abuse of Authority**, § 87(2)(g) Det. Prilook handcuffed § 87(2)(b) and led him out of the apartment. The officers exited the apartment. § 87(2)(b) asked to see the warrant, but Det. Ramirez allegedly did not show it to her (**Allegation C: Abuse of Authority**, § 87(2)(g)).

The officers were not equipped with body-worn cameras (BWCs) at the time of incident. The investigation obtained a cell phone video § 87(2)(b) took during the incident (Board Review 01).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Brian Garay entered § 87(2)(b) in Manhattan.**

**Allegation (B) Abuse of Authority: Sergeant Brian Garay damaged § 87(2)(b)'s property.**

§ 87(2)(g)

§ 87(2)(b) testified that § 87(2)(b) did not live in her apartment but that he regularly visited her about twice a week in the morning to help her get her § 87(2)(b) year-old son ready for school and occasionally he spent the night (Board Review 02). On the date of incident, § 87(2)(b) came to § 87(2)(b)'s apartment at approximately 4:50 a.m. Approximately 40 minutes later, § 87(2)(b) was in the kitchen and § 87(2)(b) was on the couch in the living room when she heard a loud knock on the door. An officer said, "This is the police. Open your door," and, "We have a warrant." § 87(2)(b) told the officer to slide the warrant under the door. The officer refused and told § 87(2)(b) to open the door. § 87(2)(b) refused. Officers began ramming the door. Cracks started forming in the wall around the door. A phone that was hanging on the wall next to the door fell from its hook and broke on the floor. § 87(2)(b) told the officers that she was going to open the door. § 87(2)(b) began filming a video on her phone, and § 87(2)(b) knelt in front of the door with his hands on his head. When § 87(2)(b) opened the door, officers entered the apartment and handcuffed § 87(2)(b). § 87(2)(b) asked, "Can I see the warrant?" No officers answered (see analysis of **Allegation D** below). The officers left the apartment with § 87(2)(b).

Sgt. Garay and Det. Prilook both testified that they visited the location to arrest § 87(2)(b) on an arrest warrant from Montgomery County Pennsylvania (Board Review 03 and 04, respectively). The warrant did not list § 87(2)(b), in Manhattan as § 87(2)(b)'s address. Det. Ramirez was the lead investigator on the case and neither Sgt. Garay nor Det. Prilook were involved in the investigation.

The investigation obtained the Montgomery County bench warrant, § 87(2)(b), for § 87(2)(b) which noted § 87(2)(b)'s address as § 87(2)(b) in Corona, NY (Board Review 05).

Det. Prilook stated that he learned from Det. Ramirez that Det. Ramirez ran background checks on § 87(2)(b) and found that he used a benefits card near § 87(2)(b) (Board Review 04). In the weeks prior to this incident date, Det. Prilook accompanied Det. Ramirez to § 87(2)(b) where they spoke to a security guard who confirmed § 87(2)(b) lived in the building with § 87(2)(b).

A DD5 on October 7, 2019, made by Det. Ramirez noted that a security guard at § 87(2)(b) told Det. Ramirez, Det. Prilook, and Det. Santos that § 87(2)(b) stays with § 87(2)(b) consistent with Det. Prilook's testimony (Board Review 06). Det. Ramirez noted the phone number of the security guard, § 87(2)(b) in his DD5.

Multiple phone calls were placed to this number, but § 87(2)(b) never answered or called back.

Sgt. Garay and Det. Prilook both testified that on the date of incident Sgt. Garay, Det. Prilook, Det. Ramirez, Det. Lopez, and Det. Santos spoke to the doorman at § 87(2)(b) who confirmed that § 87(2)(b) came to the location minutes prior to the officers arriving (Board Review 03 and 04, respectively). When the officers went up to the apartment, they heard a female and a male voice coming from inside. The officers knocked on the door and identified themselves. The officers told § 87(2)(b) to open the door and that they had an arrest warrant for § 87(2)(b). § 87(2)(b) stated that she was not going to open the door. The officers knocked harder, but § 87(2)(b) and § 87(2)(b) did not open the door. Sgt. Garay decided that the officers should use a crowbar and ram to force the door open since the officers had an arrest warrant for § 87(2)(b) who Sgt. Garay knew was inside, and since § 87(2)(b) and § 87(2)(b) refused to open the door. Sgt. Garay testified that he used the ram, but neither he nor Det. Prilook recalled who used the other tools. After an unknown amount of time, § 87(2)(b) opened the door. The officers entered, handcuffed § 87(2)(b) and led him out of the apartment. Neither Sgt. Garay nor Det. Prilook recalled which officers entered or handcuffed § 87(2)(b). Neither Sgt. Garay nor Det. Prilook knew if a phone had been damaged while officers were trying to open the door.

§ 87(2)(b)'s cell phone video showed that, of the officers that arrived at her apartment, only Det. Prilook and Sgt. Garay entered the apartment (Board Review 01). Sgt. Garay had one foot in the apartment and one foot on the threshold, while Det. Prilook fully entered the apartment and handcuffed § 87(2)(b) as shown at the 00:33 minute-mark of the video using the player's timestamp.

According to New York Criminal Procedure Law § 120.80, an officer may enter any premises in which he reasonable believes the subject of the arrest warrant to be present, provided that, if the premise is the dwelling of a third party, who is not the subject of the arrest warrant, the officer proceeds in the manner specified in article § 690, Search Warrants (Board Review 07).

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**Allegation (C) Abuse of Authority: Detective Juan Ramirez refused to show the arrest warrant to § 87(2)(b)**

§ 87(2)(b) testified that when the officers entered the apartment, she asked to see the warrant they referenced (Board Review 02). None of the officers showed § 87(2)(b) the warrant.

The cell phone video showed that § 87(2)(b) said, “Let me see the warrant,” to the officers three times beginning at the 00:44 minute-mark of the player’s timestamp (Board Review 06). None of the officers show § 87(2)(b) a warrant.

Sgt. Garay and Det. Prilook both testified that Det. Ramirez had the warrant in his possession at the time (Board Review 03 and 04, respectively). Both believed that Det. Ramirez showed the arrest warrant to § 87(2)(b) at some point, but they did not recall if Det. Ramirez showed the warrant to § 87(2)(b).

§ 87(2)(g)

On October 22, 2020, DAO confirmed that Det. Ramirez resigned from the NYPD (Board Review 08). § 87(2)(g)

**Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to one additional CCRB complaint and was named as a victim in two allegations (Board Review 09):
  - § 87(2)(b)
- Sergeant Garay has been a member of service for 17 years and has been named a subject in three CCRB complaints and six allegations, of which four were substantiated (Board Review 10):
  - 201102753 involved allegations of stop and vehicle search which were substantiated against Sgt. Garay. The CCRB recommended charges, and the NYPD imposed instructions.
  - 201300382 involved allegations of premises entered and/or searched and a stop which were substantiated against Sgt. Garay. The CCRB imposed charges, and the NYPD imposed forfeiting five vacation days.
  - § 87(2)(g)
- Detective Prilook has been a member of service for 17 years and has been named a subject in three CCRB complaints and five allegations, none of which were substantiated (Board Review 11). § 87(2)(g)

**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of August 17, 2020, the New York City Office of the Comptroller has no record of a notice of claim being filed in regard to this complaint (Board Review 12).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 4

Investigator:   
Signature

Inv. Devaney  
Print Title & Name

09/09/2021  
Date

Squad Leader: Raquel Velasquez  
Signature

IM Raquel Velasquez  
Print Title & Name

09/10/2021  
Date

Reviewer: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Title & Name

\_\_\_\_\_  
Date